



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

December 29, 2015

BY ECF

The Honorable Kimba M. Wood
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Deniss Calovskis*, 12 Cr. 487 (KMW)

Dear Judge Wood:

The Government respectfully submits this supplemental sentencing letter in response to the Court's order, dated December 11, 2015. The Government shares the Court's concerns regarding the seriousness of the defendant's crimes and the need for general deterrence. As noted in the Government's sentencing letter, this is particularly the case given the ease with which individuals can remotely and anonymously conspire to engage in this kind of criminal activity.

The Government's recommendation of a high-end of the Stipulated Guidelines sentence – a sentence more than a year longer than the low-end of the applicable Guidelines and eight months longer than Probation's recommended sentence – weighs the need for general deterrence against the defendant's particular role in the conspiracy. In relevant respect, the defendant was not involved in creating or disseminating the actual Gozi Virus. Further, he did not begin participating in the conspiracy until years after the malware had been created. Calovskis, along with several others, was tasked with creating specific web injects that were used on a subset of infected computers to manipulate the manner in which individual banking webpages appeared. Thus, while the Court is correct that the Gozi Virus as a whole infected more than 17,000 computers in the United States, the defendant's participation in the scheme is more limited – both because of the shorter time period in which he participated and the fact that the Government believes that the web injects that he created do not exist on every computer infected by the Gozi Virus. Indeed, indicative of the defendant's more limited role in the scheme, the defendant received only approximately \$1,000 for his participation. The Government does not believe that he otherwise financially benefitted from the sale of the malware or the financial information that was stolen by the malware.

Thus, given these factors specific to the defendant's role, the Government respectfully believes that a sentence at the high-end of the Stipulated Guidelines would be appropriate in this case. That said, the Government does not disagree with the Court's view that general deterrence warrants strong consideration in this matter, and does not believe that a sentence greater than what the Government has recommended would be unreasonable.

Respectfully submitted,

PREET BHARARA
United States Attorney

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